IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 62

PAUL SEYMOUR,

Petitioner,

vs.

SUPERINTENDENT OF WASHINGTON STATE PENITENTIARY.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

REPLY BRIEF FOR THE PETITIONER

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I.

Congress Has Defined "Indian Country" and Has Undoubted Power to Designate Areas Which Constitute Indian Country.

Petitioner contends that the tract of land on which the crime was committed, by the plain language of 18 U.S.C. § 1151(a), was within "Indian country", despite the fact the tract had been patented in fee to a non-Indian (R. 16).[1] 18 U.S.C. § 1151 describes "Indian country" as (a) all

[1] Pet. Br. 6-7, 10-11, 20-25.

land within an Indian reservation under the jurisdiction of the federal government, notwithstanding the issuance of any patent, and including rights of way, (b) all dependent Indian communities whether within the original or subsequently acquired territory, *United States* v. *McGowan*, 302 U.S. 535, and (c) all Indian allotments, inside or outside Indian reservations, the Indian titles to which have not been extinguished, *United States* v. *Pelican*, 232 U.S. 442.

Against this simple and clear statement of the law, respondent argues at length that issuance of a fee patent to land within the borders of an Indian reservation does remove such land from "Indian country" (Resp. Br. 12-34, 42).

Respondent seems to doubt the authority of Congress to enact a statute such as 18 U.S.C. § 1151(a), but it was early determined that Congress has the power to legislate in this field. When action by Congress conferring jurisdiction on federal courts for certain crimes committed on Indian reservations within the various states was challenged, this Court said, *United States* v. *Kagama*, 118 U.S. 375, 383-84:

> It seems to us that this is within the competency of Congress. These Indian tribes *are* the wards of the nation. They are communities *dependent* on the United States. Dependent largely for their daily food. Dependent for their political rights. They owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties

> in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this court, whenever the question has arisen.

In *Lone Wolf* v. *Hitchcock*, 187 U.S. 553, 565, the principle was stated in these words:

> Plenary authority over the tribal relations of the Indians has been exercised by Congress from the beginning, and the power has always been deemed a political one, not subject to be controlled by the Judicial Department of the Government. . . .

When the power of Congress to extend the Indian liquor laws to Indian pueblos in New Mexico was challenged, *United States* v. *Sandoval*, 231 U.S. 28, 45-46, this Court said:

> Not only does the Constitution expressly authorize Congress to regulate commerce with the Indian tribes, but long continued legislative and executive usage and an unbroken current of judicial decisions have attributed to the United States as a superior and civilized nation the power and duty of exercising a fostering care and protection over all dependent Indian communities within its borders, whether within its original territory or territory subsequently acquired, and whether within or without the limits of a State. . . .

Having the power to assume such jurisdiction, the federal government likewise has the power to divest itself of such jurisdiction. It has granted to the State of Washington the opportunity to assume jurisdiction over the Colville Reservation, but that state has not done so. Pet. Br. 27-28. Act of August 15, 1953, §§ 6, 7, 67 Stat. 588, 590.

Laws of 1957, c. 240 (RCW 37.12.020). Until the State of Washington assumes such jurisdiction, it remains in the federal government. *Williams* v. *Lee*, 358 U.S. 217, 220-21.

Respondent's reliance upon the nature of land titles to sustain state jurisdiction completely misses the point upon which this litigation turns.

It is true that early in our history, the test to determine what constituted "Indian country" was whether the "Indian title" had been extinguished. The Act of June 30, 1834, 4 Stat. 729, included this definition:

> all that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the territory of Arkansas, and, also, that part of the United States east of the Mississippi river, and not within any state to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country.

Profound changes have taken place since that time, however, and the once great areas of Indian occupancy within our territorial boundaries no longer exist. All land in the United States is now embraced within the boundaries of the several states, including the reservations on which Indians still reside. Much of the land within the Indian reservations has been opened to white settlement. Still, the United States remains responsible to a large degree for the supervision of Indians living on reservations. To meet "the changes which have taken place in our situation, with a view of determining from time to time what must be regarded as Indian country," *United States* v. *McGowan*, 302 U.S. 535, 537-38, Congress enacted a new definition of Indian country. The location of the limits or boundaries of an Indian reservation—not land titles—is now the test of

what constitutes Indian country under 18 U.S.C. § 1151 (a):

> all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, ...

The definition of "Indian country" in § 1151(a) is broad. Where Congress has deemed it advisable to restrict the definition of Indian country, it has done so. 18 U.S.C. §§ 1154 and 1156 deal with introduction and possession of liquor within "Indian country". They exclude from the definition of Indian country, for that purpose, "fee-patented lands in non-Indian communities or rights of way through Indian reservations".

For obvious reasons, respondent adopts its own definition of an Indian reservation—"an Indian reservation being commonly known to be an area of land reserved from public sale and appropriation, and dedicated to the use and occupancy of tribal Indians" (Resp. Br. 20). Respondent's definition is contrary to 18 U.S.C. § 1151. In the *McGowan* case, *supra*, this Court indicated, 302 U.S. at 539, that the important issue was whether the land had "been validly set apart for the use of Indians as such, under the superintendency of the government."[2] Once Congress establishes a reservation, all tracts within it remain a part of the reservation until separated therefrom by Congress. *United States* v. *Celestine*, 215 U.S. 278, 285. Respondent's argument overlooks the clear fact that designation of a townsite (Resp. Br. 34-38) constitutes

[2] Tribal reservations have been created in several different ways. *Federal Indian Law*, pp. 291-302. Indian property rights in the Colville Reservation derived from aboriginal possession supplemented by Executive order.

nothing more than a step preparatory to issuance of patents in fee. If issuance of a patent in fee does not remove the tract from "Indian country", then, certainly the completion of a step preliminary thereto does not do so.

The fact that Congress authorizes entry of lands within an Indian reservation under the public land laws does not remove the lands from the reservation. A single example should suffice. Forest reserves are not public lands, and yet Congress has provided that agricultural lands within forest reserves may be entered under the homestead laws. Act of June 11, 1906, 34 Stat. 233. But the existence of a homestead entry (which may ripen into a fee patent) does not remove the land from the forest reserve.[3]

We believe the entire matter is best summed up in the following words of the Supreme Court of Montana in *Irvine* v. *District Court*, 125 Mont. 398, 404, 406, 239 P.2d 272, 276:

> It seems to us that the Attorney General and the court below have placed too much emphasis on the ownership of land, and have not given due weight to the fact that the jurisdiction of the federal government over the Indian and tribes rests, not upon the ownership of and sovereignty of certain tracts of land, but upon the fact, that as wards of the general government, they are the subjects of federal authority within the state when the mentioned offense is committed as herein stipulated. . . .
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[3] See *Perko* v. *United States*, 204 F.2d 446 (C.A. 8), *cert. den.*, 346 U.S. 832, for application of federal jurisdiction over private lands within a National Forest. See, also, 18 U.S.C. § 1384, which makes certain activities outside military establishments subject to federal jurisdiction.

The fact that the federal government has alienated its fee in land or lands, by patent, which are situated within the limits of a regularly organized Indian reservation in the state does not divest it of its exclusive jurisdiction over its ward Indian, who has committed, within the limits of such an Indian reservation, one of the ten major crimes and such Indian committing such a crime is accountable only to it for the offense.

II.

Nothing Supplied by Respondent Alters the Fact That the Act of March 22, 1906, and the Presidential Proclamation of May 3, 1916, Did Not Dissolve the Colville Reservation or Change Its Boundaries.

Several cases are cited by respondent in support of the Washington Supreme Court decisions in *State ex rel. Best* v. *Superior Court*, 107 Wash. 238, 181 Pac. 688, and this case, but in each instance, the facts of the case cited distinguish it from the present case.

Among others, respondent relies heavily upon *Tooisgah* v. *United States*, 186 F.2d 93 (C.A. 10), as "supportive of the decision of the Supreme Court of the State of Washington in the instant case" (Resp. Br. 13-19). But the *Tooisgah* case does not support the holding below. This is clear from a careful analysis of the statute involved in *Tooisgah*. Phillip Tooisgah, a full-blood Apache Indian, was indicted, tried and convicted in the Western District of Oklahoma, for the murder of a full-blood Comanche Indian. The Tenth Circuit held that federal jurisdiction had been divested because Congress had decided to "disestablish the organized reservation." 186 F.2d at 98. That case involved a statute, Act of June 6, 1900, 31 Stat. 676-79, similar to the one which diminished the

Colville Reservation[4] by eliminating the north half from the reservation. Act of July 1, 1892, 27 Stat. 62.[5] Except for some allotments to members of the Colville Reservation tribes, the United States acquired all title to the north half and compensated the tribes on the Colville Reservation for that portion.[6] The north half was thereafter land outside "the limits of any Indian reservation under the jurisdiction of the United States Government, . . . " 18 U.S.C. § 1151(a). This is similar to the history of the Kiowa, Comanche and Apache Reservation involved in the *Tooisgah* case. There, the United States agreed to pay a total of $2,000,000 for a cession of 480,000 acres of the Kiowa, Comanche and Apache Reservation, 31 Stat. 676, 677. This area of the reservation, upon which the murder was committed, was therefore no longer a part of the reservation.[7]

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[4] Respondent's use of the term "south half of the diminished Colville Indian Reservation" is confusing and inaccurate (Resp. Br. 11-12 and elsewhere). A more proper and accurate term is "diminished Colville Reservation". By the Act of July 1, 1892, the north half of the Colville Reservation was vacated and restored to the public domain and was no longer a part of the reservation. What remained as the Colville Reservation was the south half—the reservation as "diminished" by operation of the Act of 1892. See Pet. Br. 4, and Appendix B. The Act of March 22, 1906, 34 Stat. 80, dealt with all of the reservation remaining after the north half was vacated and restored to the public domain by the Act of July 1, 1892, 27 Stat. 62.

[5] Pertinent portions quoted in Pet. Br. 32-33.

[6] Compensation was authorized by the Act of June 21, 1906, 34 Stat. 325, 377-78. Negotiations for a cession of the north half had been authorized by the Act of August 19, 1890, 26 Stat. 336, 355.

[7] Although not pertinent here, petitioner questions whether the the majority opinion in *Tooisgah* should have attached more weight to the fact that the allotment on which the offense was committed was an Indian trust allotment. *United States* v. *Pelican*, 232 U.S. 442. The dissenting opinion by Judge Phillips, 186 F.2d at 103, reasoned that the Act of June 6, 1900, 31 Stat. 676-79, which

The statute involved in the *Tooisgah* case was a "cession and removal" statute. The Act of 1906, involved here, constituted a "relinquishment in trust" transaction. Under the latter, the land within the exterior boundaries of the tract involved remains an Indian reservation under the jurisdiction of the United States. Pet. Br. 10.

The United States did not, by the Act of March 22, 1906, 34 Stat. 80, purchase or agree to find purchasers for the Colville Reservation lands (Pet. Br. 15-16). It agreed only to act as a trustee to handle funds paid for lands which might be purchased. § 9. There was no express or implied provision that this diminished or in any way changed the boundaries of the Colville Reservation.[8] Although the statute involved in *Tooisgah* was similar to the Act of 1892, which provided for a cession of the north half of the Colville Reservation, both differ substantially from the Act of 1906.[9]

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confirmed an agreement of October 21, 1892, "only in part disestablished the reservation created by the Medicine Lodge Treaty of 1867." In any event, both opinions agree that federal jurisdiction applies if the situs of the crime is within an "Indian reservation under the jurisdiction of the United States Government" and that an Indian reservation remains as such until or unless Congress dictates otherwise. 186 F.2d at 99, 105.

[8] Printed as an Appendix to this Reply Brief are relevant portions of H.Rept. No. 2080, 84th Cong., 2d Sess., on the bill which became the Act of July 24, 1956, 70 Stat. 626. This contains additional history of the Colville Reservation.

[9] Contrary to respondent's suggestion (Resp. Br. 19-20), Indians of North America, including the Kiowa, Comanche and Apache Tribes, were not the "fee owners" of their lands. Theirs was a right of use and occupancy which did not prevent the United States from transferring its fee without first extinguishing the Indian title, if the United States chose to do so. *Butz* v. *Northern Pacific Railroad*, 119 U.S. 55, 66. The Treaty of Medicine Lodge Creek involved in *Tooisgah* designated a reservation "for the absolute and undisturbed use of the tribes" named. II Kappler, 977, 978, Article 2. The United States retained legal title. *Johnson* v.

Application of DeMarias, 77 S.D. 294, 91 N.W.2d 480 (Resp. Br. 21), involved a burglary by an Indian on non-Indian land within the original boundaries of the Sisseton-Wahpeton Lake Traverse Indian Reservation in South Dakota. The land upon which the crime was committed, together with all other unallotted lands of the reservation, had been ceded to the United States in return for payment of a stipulated sum to the Indians. The cession was ratified by the Act of March 3, 1891, 26 Stat. 989, 1035-39, §§ 26-27, which provided, *inter alia*, that the lands ceded should be subject to the laws of the state. Any similarity in the statutes relating to the Lake Traverse and Colville Reservations applies only to the north half of the Colville Reservation (ceded by the Act of 1892) and not to the diminished ("south half") reservation dealt with in the Act of 1906.

Respondent does not "deem it to be of overwhelming significance," that the Act of 1906 affecting the Colville Reservation does not contain the words "thus diminished" utilized in the Act of May 29, 1908, 35 Stat. 460, involved in *United States* v. *LaPlant*, 200 Fed. 92, and *State* v. *Sauter*, 48 S.D. 409, 205 N.W. 25. *LaPlant* involved murder of a non-Indian by a non-Indian. Except for an unusual situation involving South Dakota, state jurisdiction would have been clear. *United States* v. *McBratney*, 104 U.S. 621; *N.Y. ex rel. Ray* v. *Martin*, 326 U.S. 496. In 1901 (Laws of 1901, c. 106), South Dakota surrendered

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M'Intosh, 8 Wheat. 543, 574, 603; *Worcester* v. *Georgia*, 6 Pet. 515, 544, 557.

The Indian tribes of the Colville Reservation established "Indian title" to the lands in the northwestern part of the State of Washington, including the lands embraced within the Colville Reservation, in a proceeding before the Indian Claims Commission and obtained a judgment against the United States for the "taking" of their lands outside the reservation. *Confederated Tribes of the Colville Reservation* v. *United States*, 4 Ind. Cl. Com. 187, 190, 199; 7 Ind. Cl. Com. 177, 208.

to the United States its jurisdiction within the limits of Indian reservations. The United States assumed jurisdiction by the Act of February 2, 1903, 32 Stat. 793. Both *LaPlant* and *Sauter* dealt with the Act of May 29, 1908, 35 Stat. 460, which authorized sale and disposition of two tracts of land of the Cheyenne River and Standing Rock Reservations in South Dakota. Section 2 of that act refers to the respective reservations as "thus diminished". The reports of the Congressional committees referred to the reservations as "diminished" and "reduced" should the bill, which became the Act of May 29, 1908, become law. S.Rept. No. 439 and H.Rept. No. 1539, 60 Cong., 1st Sess. The Act of 1908, like the Colville Act of 1906, makes the United States trustee for the Indians in sale of the lands, but there is no provision or legislative history relating to the Colville Act which shows that Congress intended to change the Colville boundaries as it did the boundaries of the South Dakota reservations.

If Congress intended to diminish the South Dakota reservations dealt with by the Act of 1908, *LaPlant* is correct. If the Act of 1908 did not change the boundaries of the South Dakota reservations, the federal court should have assumed jurisdiction.[10] *Ash Sheep Co.*, 252 U.S. 159. Aside from this, the *Sauter* case involved a crime committed on Indian-owned land, and the state court should have disclaimed jurisdiction, *United States* v. *Pelican*, 232 U.S. 442.

Putnam v. *United States*,[11] 248 F.2d 292 (C.A. 8), least of all supports the proposition that the diminished Col-

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[10] In sustaining a demurrer to the indictment, the court said, 200 Fed. at 94:

> No other meaning can be given to the words italicized ["thus diminished"] than that the reservations were diminished, and they were diminished by the act itself. . . .

[11] Cited by respondent as *Draper* v. *United States* (Resp. Br. 27).

ville Reservation was dissolved or that its boundaries were changed. *Putnam*, not a criminal case, involved the Act of May 27, 1910, 36 Stat. 440, dealing with a designated part of the Pine Ridge Reservation in South Dakota. The Act is in all material respects similar to the act involved in *LaPlant* and *Sauter*. The court concluded that the geographic boundaries of the Pine Ridge Reservation had not been changed. The statement in the portion of the opinion of the district court, quoted by the court of appeals, 248 F.2d at 295, to the effect that the reservation would "be diminished in size" through settlement by non-Indians is dictum. That case involved only the validity of deeds to trust allotments where the owner of the fee title did not join in the conveyance. The dictum is contrary to *Ash Sheep Co.* v. *United States, supra*.

We reiterate that none of the cases cited by respondent warrants a conclusion that the Act of March 22, 1906, 34 Stat. 80, dissolved the diminished Colville Reservation or changed its boundaries. Since the passage of that act, Congress and the Executive have continued to recognize that the Colville Reservation has retained the same geographic boundaries since 1892. Pet. Br. 13-20.

Conclusion

It is respectfully submitted that the ruling of the Supreme Court of the State of Washington is erroneous. It should be reversed and that court instructed to grant petitioners' application for a writ of habeas corpus.

Respectfully submitted,

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APPENDIX

House Report No. 2080, 84th Cong., 2d Sess.:

RESTORING TO TRIBAL OWNERSHIP CERTAIN LANDS UPON THE COLVILLE INDIAN RESERVATION, WASH., AND FOR OTHER PURPOSES

* * * * *

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7190) restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

* * * * *

EXPLANATION OF THE BILL

H.R. 7190, as amended, introduced by Congressman Magnuson, is fourfold in purpose. First, it restores to the Confederated Tribes of the Colville Reservation 818,000 acres of undisposed of ceded lands; second, it provides that in order to effect tribal land consolidation in Ferry and Okanogan Counties in the State of Washington, the Secretary of the Interior may sell or acquire through purchase, exchange or relinquishment lands or other interests in lands, water rights or surface rights within the boundaries of the reservation; third, it provides for submission by the tribe, within 5 years from the date of enactment of this act, proposed legislation providing for the termination of Federal supervision over the property and affairs of the Colville Confederated Tribes within a reasonable period of time thereafter; and, finally, it ratifies and approves an agreement entered into by the Colville Tribe and Okanogan and Ferry Counties on April 21, 1954. This agreement provides that the Colville Tribes, in lieu of payment of taxes, will pay the sum of $40,000 per year to the two named counties to defray a proportionate share of current administrative and road costs expended by the counties on behalf of the Colville Indians.

History of the Land Problem

The Colville Reservation was established by Executive order of July 2, 1872. The original reservation comprised an area of approximately 2,886,000 acres. In 1892 an area of approximately 1,500,000 acres in the northern half of the reservation was restored to the public domain, as a result of an agreement of May 9, 1891, between the representatives of the tribes and the United States. This agreement provided for the cession of the northern half of the reservation—1,500,000 acres—for the maintenance of a school and mill on the diminished reservation, for the allotment of 80-acre farms on the ceded part of the reservation to those Indians who desired, for the payment of $1,500,000, and for the relinquishment of all right, title, and interest to the northern portion of the reservation. Prior to opening this area to settlement 660 Indians were allotted a total of 51,653 acres, or an average of 78.3 acres each. The balance of the area was open to settlement under the laws applicable to disposition of public lands in the State of Washington. Each entryman was required to pay $1.50 per acre for land homesteaded, in addition to the required fee. These proceeds were set aside for the benefit of the Indians. Subsequent legislation created the Colville National Forest which is comprised of about 760,000 acres of the undisposed lands in the northern half of the reservation.

On December 1, 1905, a disputed majority of the Colville tribal members by agreement with James McLaughlin, United States Indian inspector, on behalf of the Federal Government relinquished all right, title and interest of the Indians to the lands embraced within the reduced Colville Indian Reservation provided that allotments of lands of 80 acres each were made to every man, woman and child belonging to or having tribal rights on the reservation. The McLaughlin agreement also contained the condition that the Indians would be paid for the northern portion of the reservation, containing approximately 1,500,000 acres, which had been vacated and restored to the public domain by the act of July 1, 1892, and that the Indians would receive $1,500,000 in full satisfaction of the 1891 agreement.

Some Colville Indians feel that their forefathers were badly informed by the Federal Government, probably through misunderstandings in the McLaughlin case, when they negotiated the 1905 agreement which stipulated that payment for the northern half of their reservation was contingent upon their signing away additional portions of their diminished land base. The Colvilles lay no claim to the northern half of the total reservation (although it was ceded to them) but they want a clarification of their rights and property holdings in the diminished area which was opened to settlement in 1916 but was withdrawn by Executive order in 1934.

The 818,000 acres in question are the undisposed of lands of the Colville Reservation authorized to be classified and open to public entry by the act of March 22, 1906 (34 Stat. 80). Subsequently, by Presidential proclamation of May 3, 1916 (39 Stat. 1778) there was opened for entry the irrigable, grazing and arid lands within the area. The lands classified as mineral acres were subject to location and disposal under the mineral-land laws of the United States. These lands were temporarily withdrawn from all forms of entry and disposition by departmental order of September 19, 1934, with a view to restoring them to tribal ownership under the Indian Reorganization Act of 1934 (IRA). However, since the Colville Indians excluded themselves from IRA, the restoration of the lands to tribal status may be accomplished only by congressional authority.

H.R. 7190, as amended, would restore these 818,000 acres to tribal ownership subject to any existing valid rights and would provide a means for consolidation of Indian and non-Indian holdings on the reservation within Okanogan and Ferry Counties through purchase, exchange or relinquishment. There appears to be little question as to the desirability and necessity of the restoration of the lands in order to provide economic security to the Colvilles through the continuance and expansion of their cattle and timber industries within the reservation. It is estimated that 97 percent of the tribal income is derived from these lands. It should be remembered that although the tribe

has had control of these lands for years, because of the lack of its outright ownership the Indians have not felt free to establish fully an economic base. Restoration will have the additional important beneficial result of permitting mineral exploration and development of this land.

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UNITED STATES DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,
Washington, D.C., July 20, 1955.

HON. CLAIR ENGLE,

Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

MY DEAR MR. ENGLE: Your committee has requested a report on H.R. 6154, a bill restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes.

We recommend that the bill be enacted if it is amended as suggested below.

The lands proposed for restoration are approximately 818,000 acres, being the "opened" undisposed of lands of the diminished Colville Reservation, authorized to be classified and opened to public disposition by the act of March 22, 1906 (34 Stat. 80). The Presidential proclamation of May 3, 1916 (39 Stat. 1778), opened for entry only the irrigable, grazing and arid lands within the area. The lands classified as mineral lands were subject to location and disposal under the mineral-land laws of the United States. By departmental orders of September 19, 1934, and November 5, 1935, all these lands were temporarily withdrawn from further disposition through entry or sale, until the matter of their restoration to tribal ownership could be given appropriate consideration.

The act of March 22, 1906, was based upon the agreement of December 1, 1905. This agreement provided for allotments of 80 acres to each man, woman, and child belonging to or having tribal rights on the Colville Indian Reservation, and required that they cede, grant and relinquish to the United States all the right, title, and interest

they had to all other lands embraced within the so-called diminished Colville Indian Reservation. The proceeds of the sale of these ceded lands by the United States were, however, to be paid to the Indians. It is clearly evident now that the alloted lands will not support the Indian population of the reservation.

The undisposed of ceded lands, including approximately 475,000 acres classified as timberlands, are widely scattered over the entire reservation. For a number of years the Indians have been requesting that these lands be restored to them to provide a secure economic base which they might develop. H.R. 6154 would restore these lands to tribal ownership, subject to any existing valid rights, and provide a means for consolidation of Indian and non-Indian holdings on the reservation within Ferry and Okanogan Counties, Wash., through purchase, exchange, and relinquishment.

"Justification for restoration 'opened' lands diminished portion reservation" was enclosed with our report dated May 10, 1951, on H.R. 2387, 82d Congress. This justification discloses that the economic security of the Colville Indians requires the expansion of the cattle industry and the continuance of a permanent timber industry on the reservation; that the expansion of both of these industries is dependent on the restoration of a tribal status of the undisposed of "opened" lands; and that 97 percent of the tribal income is derived from these lands. The further expansion of these industries will aid the economic improvement of many Colville Indians, including those who served in the Armed Forces during the recent war. The tribe has had control of these lands, the same as tribal lands, over a long period of years, and has used the income therefrom for tribal purposes.

* * * * *

ORME LEWIS,
Assistant Secretary of the Interior.

* * * * *